



# **TOWN OF EASTHAM**

## **ZONING BY-LAWS**

**With Subdivision Regulations**

October, 1995



# TOWN OF EASTHAM -- ZONING BY-LAWS

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## **TOWN OF EASTHAM ZONING BY-LAWS**

### **SECTION I – PURPOSES**

The purpose of this By-law is to promote the health, safety and general welfare of the inhabitants of the Town of Eastham, by dividing the Town into districts with a view towards conserving the best qualities of the Town as they now exist.

### **SECTION II – DEFINITIONS**

For the purpose of this By-Law the following terms shall have the following meanings:

**ALTERATION** -- As applied to a building or structure, means any modification, demolition, extension, reconstruction, renovation or rearrangement in the structural parts (horizontally or vertically) or in the exit facilities, or the moving from one location or position to another.

**AMUSEMENT** – Any type of indoor or outdoor amusement requiring the review and/or the issuance of a license by the Board of Selectmen, or sporting activities regardless of whether or not admission is charged.

**AMUSEMENT PARK** – A premise or any part thereof used to provide one or more mechanical devices, rides, games or other like attractions to the public for hire or compensation of any kind, whether for fee or by admission or in connection with another service for which a fee is charged.

**AMUSEMENT, OUTDOOR** – A drive-in theater, golf driving range or facility other than a regulation golf course of not less than nine (9) holes or any other commercial entertainment or recreation carried on in whole or in part outdoors. Outdoor amusement shall not include a swimming pool, private or public, where no charge is made or where such is operated in connection with a hotel, motel, camp or club.

**AMUSEMENT, INDOOR** – Any cinema, theater, auditorium, indoor sports area, health club, bowling alley, or any other commercial entertainment or recreation carried on indoors.

**ANIMAL HOSPITAL** – A building used primarily for the medical and surgical care of animals. Said building may include related facilities such as a laboratory and crematorium.

**APARTMENT** – A part of a building consisting of a room, suite, or collection of rooms intended, designed or used as a residence, separate from other residences on the same property.

**APARTMENT HOUSE** -- A building containing three (3) or more apartments, under a common roof, each independent of the other, and having side, front and rear yards.

**AREA, BUILDING** -- The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Area of the building not provided with surrounding walls shall be included in the building area if included within the horizontal projection of the roof or the floor above.

**AREA, NET SITE** -- The total area within the property lines excluding external streets, wetlands and areas committed by easements for other uses.

**ATHLETIC CLUB** -- A town, state, federally or privately owned facility or facilities used for the purposes of indoor or outdoor recreation for any public or private group. Principal facilities shall be a swimming pool or pools and/or tennis courts or similar courts. Accessory facilities generally associated with a swimming pool (s) and/or tennis court (s) are to be included in this definition.

**BASEMENT** -- That portion of a building which is partly below and partly above grade, and having at least one-half (1/2) its height above grade.

**BED AND BREAKFAST** -- A one-family, owner-occupied business located in a dwelling in which no more than two (2) bedrooms are offered for rent for the primary purpose of furnishing overnight lodging, and a morning meal to the overnight guests only.

**BOATHOUSE, PRIVATE** -- A facility for private individual use and not for hire for the storage of boats and related marine equipment.

**BOATHOUSE, PUBLIC** -- A facility for the construction, repair, storage, rental, or servicing of boats for hire or compensation, and for the sale of boats or marine equipment.

**BUILDABLE UPLAND** -- Land which is not swamp, pond, bog, dry bog, fresh or salt marsh, areas of exposed groundwater, stream, and/or which is not subject to flooding from high tides.

**BUILDING** -- A structure forming a shelter for persons, animals, property or an activity and having a roof. Where appropriate in the context, the word building shall include the principal and accessory buildings.

**BUILDING, ACCESSORY** -- A supplemental building or a portion of a main building, the use of which is incidental to that of the main or principal building, and which is located on the same lot therewith.

**BUILDING, DETACHED** -- A building designed or intended for one or more purposes, not connected to any other building on the same lot.

**BUILDING, FRONT LINE OF** -- The line of that face of the building nearest the public or private way. This face shall include sun parlors, enclosed projections from the main body of the building, covered porches whether enclosed or unenclosed, decks, but not including uncovered steps.

**BUILDING HEIGHT** -- The vertical distance, not to exceed thirty (30) feet, between the highest point of the roof and the average elevation of the naturally existing mean grade prior to any excavation, leveling, grading, or filling at the building foundation, exclusive of chimneys, air shafts, ventilators, vents or similar items which may be of the height required for proper operation or use. Building height applies to all buildings and/or structures.

**BUILDING PERMIT** -- A document of authorization to construct, repair, alter, demolish, enlarge or change any building and/or structure.

**BUILDING, PRINCIPAL** -- A building in which is conducted the main or principal use of the lot on which said building is situated.

**BULK STORAGE, OPEN** -- Exposed outside storage of sand, lumber, coal or other bulk materials or supplies.

**BULK STORAGE, TANKS** -- Exposed outside storage tanks, silos or similar structures for the storage of oil, gas, fuels or other liquids or materials, with the exception of those located upon a farm and employed for farm purposes.

**BUSINESS OFFICE** -- A building or part thereof devoted to the administration of a business or commercial enterprise which involves clerical, accounting and other administrative procedures but which excludes the receipt, processing and sale of merchandise; or a building or part thereof devoted to the professional office of a physician, lawyer, engineer, architect, real estate or insurance agent, or business activities of licensed professionals.

**BUSINESS, PERSONAL SERVICE** -- Any building or part thereof used for the purpose of rendering a service upon the premise to the public where the sale of a product is not involved.

**BUSINESS, RETAIL** -- A building or part thereof, used for the storage and display of items for retail sale.

**BUSINESS, SERVICE** -- Any building or part thereof used for or from which the sale, installation, repair and servicing, or the sale and/or installation, of component parts, of home appliances and installation is conducted. Service business shall include, plumbing and electrical shops, radio and television sales and repair, service contractors, and supply yards or outdoor storage relative to the conduct of these businesses. It shall not include the sale or service of motor vehicles, trucks or boats.

**CABIN** -- An existing structure containing not less than 150 square feet of floor area, nor more than 499 square feet of floor area, exclusive of porches, sun decks, patios, raised terraces or similar items, and containing sleeping, living and toilet facilities but not including any kitchen or cooking facilities.

**CAMP** -- An area consisting of at least four (4) acres, exclusive of wetlands, upon which is located, or upon which it is intended to locate, the facilities required to operate upon a seasonal basis the continuing supervised recreational, health, educational religious or athletic program, or a combination thereof.

**CAMPER** -- A small, portable vehicle used for living purposes whether standing on wheels, attached to a mobile body or on rigid supports.

**CAMP GROUND** -- A parcel of land used or intended to be used, let or rented for occupancy by or of tents or moveable or temporary overnight dwelling facilities of any kind, exclusive of camps as defined by this section.

**CELLAR** -- That portion of a building which is partly or completely below grade, having at least one-half (1/2) of its height below grade.

**CLUB or LODGE** -- The premises or buildings of a nonprofit organization primarily servicing members and their guests for recreational, athletic or civic purposes, but not including any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. This shall not include clubs or organizations whose chief activity is a service customarily carried on as a business.

**CONDOMINIUM** -- The land, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of M.G.L. c. 183A.

**CONDOMINIUM UNIT** -- A part of a condominium including one (1) or more rooms, with appurtenant areas such as balconies, terraces and storage lockers, if any are stipulated in the condominium master deed as being owned by the unit owner, occupying one (1) or more floors or a part or parts thereof, including the enclosed space therein, intended for any type of use, and with a direct exit to a street or way or to a common area leading to a street or way.

**CONTRACTOR'S YARD** -- Premises used by a building contractor or subcontractor principally for storage of equipment and supplies, fabrication of subassemblies or parking of wheeled equipment.



**COTTAGE** -- An existing structure containing not less than 500 square feet of floor area on at east one (1) floor, exclusive of sun decks, patios, and raised terraces, and containing at least one (1) floor, exclusive of sun decks, patios, and raised terraces, and containing at least one (1) bedroom, a living room, a kitchen, a bath or toilet room or any reasonable similar combination of rooms, designed for temporary, transient, seasonal living.

**COTTAGE COLONY** -- A group of two (2) or more detached cottages located on the same lot, each cottage containing one (1) dwelling unit only, designed for temporary transient seasonal living.

**COVERAGE** -- The percentage of the lot area covered by the area of a building or buildings and/or structures.

**CREMATORY** -- As defined by Massachusetts General Laws.

**DEMOLITION** -- The act or process of wrecking, destroying or removing, temporarily or permanently, 50% or more of any existing structure.

**DWELLING** -- A building designed or used as living quarters.

**DWELLING, DUPLEX** -- A building containing living quarters for not more than two (2) families, having not less than 1,000 square feet of floor area under a common or connected series of roofs and containing in each dwelling all the requirements for a one family dwelling.

**DWELLING, ONE FAMILY** -- A building containing living quarters for one (1) family, having not less than 500 square feet of floor area on at least one floor, exclusive of porches, sun decks, patios, raised terraces or similar items, and containing a kitchen, a bathroom containing a toilet, a lavatory, a tub and/or shower, a living room, and a bedroom or any reasonably similar combination of rooms.

**DWELLING, TWO FAMILY** -- See DWELLING, DUPLEX.

**FAMILY** -- An individual or two (2) or more persons related by blood or marriage, or a group of not more than four (4) persons not so related, living together as a single housekeeping unit.

**FARM, COMMERCIAL** -- Any parcel of land containing at lease five (5) acres of land which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, hogs, livery and dog kennels.

**FITNESS CENTER** -- see ATHLETIC CLUB

**FILLING STATION** -- Any area of land, including structures thereon, that is primarily used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying or otherwise cleaning or servicing such motor vehicles. Such use shall not include body work or the painting of vehicles or other than minor repair work.

**FLOOR AREA OF A BUILDING** -- The sum of the gross horizontal area of the several floors of a building, excluding cellar and basement floor areas not devoted to residential use, and excluding the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**FLOOR AREA, LIVABLE** -- The sum of the gross horizontal area of the floors of a dwelling used or intended to be used for living, sleeping, cooking or eating purposes, excluding cellar, attic and basement floor area not devoted to residential use.

**FLOOR AREA RATIO** -- The ratio of the total gross floor area of a building or buildings on one (1) lot to the total area of the lot.

**FUNERAL HOME** -- A dwelling or other structure used by a professional licensed mortician for burial preparation and funeral services.

**GARAGE, PRIVATE** -- A building designed for the storage of motor vehicles.

**GARAGE, PUBLIC** -- Any building which is not a private garage and which is used for the servicing and repair of automobiles and trucks, and the retail sale of fuels for motor vehicles.

**GIFT-CRAFT SHOP / ART GALLERY** -- A building or portion thereof used for the inside display and retail sale of crafts, art work, sculpture and items primarily designed as gifts and keepsakes as distinguished from the retail sale of food, clothing, hardware, furniture and items more commonly associated with or essential to the maintenance of home, person and property.

**GUEST HOUSE, PRIVATE** -- A detached or semi-detached building located upon the same lot with one family dwelling containing not more than 250 square feet and not containing cooking facilities, the use of said building being limited to the entertainment of relatives and friends without fee or other costs.

**HAZARDOUS OR TOXIC MATERIAL/WASTE** -- see TOXIC OR HAZARDOUS MATERIAL/WASTE.

**HOME OCCUPATION** – An occupation or profession which is conducted in a residential zone and which:

- A. Is carried on in a dwelling unit or in a building or other structure accessory dwelling unit, and
- B. Is carried on by member of the family residing in the dwelling unit for residential purposes, and
- C. Is secondary to the use of the dwelling unit for residential purposes, and
- D. Conforms to the following additional conditions:
  - 1. No more than one (1) non-family member shall be employed in the home occupation.
  - 2. The floor area used by the home occupation shall not exceed thirty percent (30%) of the total livable floor area of the principal building;
  - 3. There shall be no exterior display, no exterior sign, except as permitted under the Sign Code, no exterior indication of the home occupation or variation from the residential character of the principal building;
  - 4. No offensive noise (as defined in the Eastham Noise By-Law), offense to hours of operation, vibration, smoke, dust, gas, odors, heat or glare beyond a reasonable judgment shall be produced;
  - 5. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises;
  - 6. No outside storage of materials and equipment shall be permitted unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
  - 7. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident's vehicle (s);
  - 8. Any merchandise offered for retail sale must be manufactured or assembled on the premises;
  - 9. The occupation of repairing gas, gasoline or diesel engines is specifically excluded; and

10. The physical presence of non-family member employees or the public shall be limited to the hours between 7:30 AM and 10:00 PM.

HOTEL -- see INN

IMPERVIOUS SURFACE -- Any surface which does not allow precipitation to percolate through that surface towards the groundwater.

INDUSTRY, HEAVY -- The production, assembly, processing, finishing or manufacture of any object or material which results in or would result in noise, dust, odor, vibration, gases, or any objectionable feature that can or could be detected at any time off the premises upon which located.

INDUSTRY, LIGHT -- Fabrication, assembly, processing, finishing work or packaging in such a manner that noise, dust, odor, vibration, or similar objectionable features are confined to the premises and are in no way objectionable to abutting property.

INN -- A building, together with its accessory buildings, used or arranged or designed to be used to provide living accommodations including sleeping quarters, and meals which are prepared and served from a central kitchen/dining facility operated under a victualer license. The definition here given shall also include that for a hotel.

JUNK -- Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered as junk.

JUNK YARD -- The use of any area of any lot, outside a building, for the storage, keeping, resale or abandonment of junk, or scrap or discarded materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

LINE, STREET -- The dividing line between the street right of way and the lot.

LODGE BUILDING -- A structure occupied by a non-profit social or civic organization.

LOT -- A parcel of land occupied or intended to be occupied by one (1) main building or use and its accessory buildings, together with such open spaces as are required under the provisions of this By-Law, having not less than the minimum area required by this By-Law for a lot in the district in which such land is situated, and having its principal frontage on a street or other public or private way.

LOT AREA -- The horizontal area of a lot exclusive of any area under water, or within a road layout.

**LOT AREA REQUIREMENTS** -- The calculation of minimum lot area requirements shall not include land subject to annual flooding or land under any stream, creek, or other water bodies. Such requirements for calculation of lot area must consist of a minimum of 75% contiguous upland.

**LOT LINES** -- The lines bounding a lot as defined herein.

**MOTEL** -- A structure containing not more than 4000 square feet on one floor, exclusive of porches, sun decks, patios, raised terraces or similar items, divided into units containing living, sleeping and toilet facilities only. No individual kitchen or cooking facilities in units shall be permitted.

Structures shall be one story in height except where the terrain will allow the rear wall to be two stories in height. Rear wall is defined as the wall farthest from the road or roads off which the structure is located and parallel to said road or roads.

When more than one motel structure is erected on one lot, each structure shall be not less than fifty (50) feet from any other structure on the lot. No structure shall be erected nearer than fifty (50) feet from the lot side lines nor nearer than twenty-five (25) feet from the lot rear line.

**MOTOR VEHICLE SALES** -- A premises used for the display and for the sale of new or used motor vehicles, as that term is defined under the Massachusetts General Laws.

**NONCONFORMING USE** -- A building, structure, or land lawfully occupied by a use that did not conform to the by-laws of the district in which it is situated at the time of the adoption of applicable Zoning By-Laws and of any amendments thereto.

**NURSING or CONVALESCENT HOME** -- Any state licensed dwelling or building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**NURSERY SCHOOL** -- A school designed to provide daytime care or instruction for two (2) or more children from two (2) to six (6) years of age, inclusive, and operated on a regular basis.

**OCCUPANCY PERMIT** -- A permit issued by the Building Inspector authorizing the occupancy and the use of the land and/or structures and buildings.

OPEN SPACE -- An unoccupied space, open to the sky, free of all structures, parking, pavement and other impervious surfaces; consisting of lands used for agricultural or forest uses; and any land area that would, if preserved and continued in its present use:

1. Conserve and enhance natural or scenic resources;
2. Protect air or streams or water supply;
3. Promote conservation of soils, wetlands, beaches or tidal marshes, and
4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.

OUTSIDE DISPLAY -- Goods displayed in conjunction with business or retail trade, by permit from the Special Permit Granting Authority.

PARKING SPACE -- The area required for parking one (1) automobile.

PARKING, PUBLIC -- An area used for the purpose of parking vehicles, whether or not a fee is required.

PARKING, PRIVATE -- Space for parking accessory to principal use, not to include parking for fee or parking of more than one (1) commercial vehicle except on farms.

PASSIVE RECREATION -- Forms of recreation such as nature study, walking, hiking, and horseback riding; and fishing and hunting as permitted by law.

PET KENNEL -- A building, structure or area used for the boarding, grooming, and breeding of domestic animals.

PET STORE -- A building or structure used for the sale of domestic pets and related supplies.

PORCH, OPEN DECK -- A porch that has no walls or windows other than that of the main building to which it is attached.

PROCESS WASTEWATER -- Includes all wastewaters other than sanitary wastewater.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL TRIPPING -- An area of land or part thereof used for the purpose of extracting stone, sand, gravel or top soil.

RECHARGE AREA -- The area, encompassing land and water surface, through which precipitation enters the groundwater body and from which groundwater flows naturally or is drawn by pumping into a water supply well.

REMOVAL OF BUILDING -- Removal by demolition or relocation, either in whole or in part.

RESORT AND CONFERENCE CENTER -- A structure or series of structures, divided into separate units, the purpose of which is to provide living, sleeping and toilet facilities; conference, seminar, or meeting facilities and/or recreation or entertainment services and facilities, including but not limited to golfing, tennis, dining, or other amenities intended to solicit the use of the property as a resort or conference center.

RESTAURANT -- A building used for the preparation, indoor sale, and consumption of meals and refreshments on the premises. May include open or outside terrace.

RESTAURANT, DRIVE-IN -- Premises where meals and other items of nourishment and refreshments are offered for sale, and where any portion of these are consumed or intended to be consumed in the open, off-premises, or within cars parked upon the premises.

RETAIL SALES AND SERVICES -- Any business engaged in selling goods or merchandise to the general public and rendering services incidental to the sale of such goods.

RIDING ACADEMY -- Any business where horses and/or ponies are kept for riding, driving or stabling for compensation, or incidental to the operation of any club, association or similar establishment.

ROADSIDE STAND -- A structure from which 100% of the products displayed and offered for sale are produced upon the premises or are legally gathered from the sea or seashore.

SANITARY SEWAGE -- see SANITARY WASTEWATER.

SANITARY WASTEWATER -- Any water carrying putrescible waste resulting from the discharge of water closets (toilets), laundry tubs, washing machines, sinks, showers, dishwashers, or any other source.

SEASONAL -- This term shall refer to a period of time commencing each calendar year on the first day of April and terminating the last day of November of each calendar year.

SERVICE TRADE -- An occupation or business which provides service to customers primarily in or on the customers' homes or premises, including but not limited to such trades as carpentry, masonry, plumbing and heating, electrical installation and repair, well drilling, and lawn maintenance. Such service trades may be operated out of the provider's residence subject to the following restrictions:

- A. The business is secondary to the use of the dwelling unit for residential purposes;
- B. No more than two (2) employees may report to the provider's residence;

- C. No outdoor storage of service-related materials or equipment is permitted on the provider's premises unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
- D. No more than two (2) motor vehicles (as that term is defined by the Massachusetts General Laws, Chapter 90, Section 1, but containing no more than six (6) wheels) which are used in the service trade may be kept on the provider's premises;
- E. Deliveries may be made to the provider's premises no more frequently than an average of five (5) times a week;
- F. There shall be no exterior sign or other display except as permitted under the Sign Code for a residential district, and no exterior indication of the service trade which detracts from or is in conflict with the residential character of the principal building and area;
- G. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas smoke, dust, noise, electrical disturbances, or in any other way. In the case of electrical disturbances, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
- H. The floor area used shall not exceed thirty percent (30%) of the total livable floor space in the principal building; and
- I. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident's vehicles.

SEWAGE -- see SANITARY WASTEWATER

SPECIAL PERMIT GRANTING AUTHORITY -- Shall be the Board of Appeals or another authorized board as allowed under Chapter 808 of the Act's of 1975, Massachusetts General Laws, as amended.

STABLE, PRIVATE -- A building in which animals are kept for private use and not for hire, remuneration, or sale.

STABLE, PUBLIC -- A building in which two (2) or more horses and/or ponies are kept for remuneration, breeding, raising or for hire or sale.

STORY -- That portion of building contained between any floor and the floor or roof above it.



**STREET, GRADE** -- The officially established grade of the center line of the street on which a lot fronts. If there is no officially established grade, the existing average grade between lot lines shall be taken as the street grade.

**STRUCTURE/BUILDING** -- Anything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground.

**STUDIO, PRIVATE; also ARTIST STUDIO** -- a building or part of a building generally limited to a one (1) room working space so designed as to accommodate an occupation relative to production of various forms of art, such as painting, sculpture, photography. Such a unit may be included within home occupation as defined in this By-Law only when such unit clearly meets ALL requirements of the home occupation definition.

**SWIMMING POOL** -- Any body of water or receptacle for water, enclosed or unenclosed, having a depth at any point greater than two (2) feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above ground. Any such pool shall conform to applicable state requirements.

**TEMPORARY STRUCTURE/BUILDING** -- One to be used for less than six (6) months.

**TENNIS COURT** -- An area used or intended to be used for tennis and tennis related activities, and constructed, installed or maintained on or above the ground. A tennis court shall be considered a structure for the purposes of this By-Law.

**TOXIC OR HAZARDOUS MATERIAL/WASTE** -- Any substance presently or subsequently designated by any federal, state or local agency or mixture of such physical, chemical, or infectious characteristics as to pose a significant or actual potential hazard to water supplies if such substance or mixture were discharged into lands or waters of this Town. Toxic or hazardous materials include but are not limited to, organic chemicals, petroleum products, heavy metals, radioactive substances, infectious substances, acids, alkalies, pesticides, herbicides, fungicides, rodenticides, paints, varnishes, solvents, thinners, substances listed in the Regulations, 310 CMR 30.131-136, or substances which have one or more of the characteristics listed below:

1. Ignitable -- easily catches fire, flash point less than 140 degrees Fahrenheit;
2. Corrosive -- very acidic or alkaline, pH less than 2 or greater than 12.5;
3. Reactive -- explosive, produces toxic gases when mixed with water or acid;
4. Toxic -- poisonous, may injure or kill.

Wastes generated by, but not limited to the following activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such activity can demonstrate to the contrary to the satisfaction of the Eastham Board of Health:

1. Airplane, boat and motor vehicle service and repair;
2. Chemical and bacteriological laboratory;
3. Cabinet making;
4. Dry cleaning, Laundromat;
5. Electronic circuit assembly;
6. Metal plating, finishing and polishing;
7. Motor and machinery service and assembly;
8. Painting, furniture stripping;
9. Pesticide, herbicide, fungicide, rodenticide and/or nitrate fertilizer application;
10. Photograph processing;
11. Printing;
12. Wood finishing or refinishing.

TRAILER HOME/MOBILE HOME -- A unit which at any time was a portable or mobile vehicle and was designed to be portable and used for living purposes whether standing on wheels or at a later date transferred to rigid supports.

TRAILER PARK -- A tract of land occupied by or designed or intended for the occupancy of trailer homes or any similar vehicle.

TRANSPORT TERMINAL -- Yard or structure for the storage and/or servicing of two (2) or more commercial vehicles and the storage of materials in transit.

USE -- The specific purpose for which land or a structure or building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term permitted use or its equivalent shall not be deemed to include any nonconforming use.

VETERINARIAN -- see ANIMAL HOSPITAL.

**WAREHOUSING** -- Storage of goods within a building or yard for distribution but not for retail sale on the premises.

**WELLFIELD** -- An area of undeveloped or sparsely developed land of sufficient size to accommodate one or more municipal water supply wells pursuant to statute, by-law or other legal authority.

**YARD** -- An unoccupied space on the ground open to the sky, on the same lot with a building.

### SECTION III -- ZONING DISTRICTS

A. The Town of Eastham is hereby divided into the following zoning districts:

DISTRICT A -- A residential area of one (1) and two (2) family dwellings.

DISTRICT B -- An area for marina-related uses to accommodate the boating and fishing needs of the town residents and guests.

DISTRICT C -- An area to serve the industrial needs of the community.

DISTRICT D -- A retail sales and/or service area.

DISTRICT E -- An area of limited commercial development that is compatible with the residential character of the neighborhood.

SEASHORE DISTRICT F -- An area of one (1) family dwellings located within the boundaries of the Cape Cod National Seashore Park to further the preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 (75 Stat. 284, 291); to prohibit commercial and industrial uses therein, to preserve and increase the amenities of the Town; and to conserve natural conditions, wildlife and open spaces for the education, recreation and general welfare of the public.

WATER RESOURCES PROTECTION DISTRICT G -- An open space area or residential area of one or two family dwellings; the Water Resource Protection District is designed to protect the public health by preventing contamination of the ground and surface water resources providing a portion of the potential public water supply for the Town of Eastham.

WELLFIELD PROTECTION DISTRICT H -- An open space area designed to protect the public health by preventing the contamination of the ground and surface water resources in a test wellfield area demonstrated to be capable of providing a portion of the potential public water supply for the Town of Eastham.

All shown on a map entitled 'ZONING MAP OF THE TOWN OF EASTHAM, MASSACHUSETTS dated May 3, 1989' which is on file with the Town Clerk and which has been duly adopted as the official zoning map for the Town.

B. DISTRICT BOUNDARIES

1. Zoning Boundary Lines: Zoning districts shall extend to the full territorial limits of the Town of Eastham and shall extend into adjoining water bodies and include the lands thereunder.
2. The district boundaries shall be as shown on the Zoning Map. The scale of the map and the figures entered thereon are to serve as guides.
3. Where the boundary line divides any lot existing at the time such line is adopted, which has street frontage in the less restricted area, a use authorized on the less restricted portion of such lot may be extended into the more restricted portion for a distance of not more than thirty (30) feet.
4. Where a street divides two (2) zoning districts, the districts shall be deemed to abut each other.

## SECTION IV -- FLOOD PLAIN ZONING

See definitions of flood plain zone designations in ARTICLE V of the SECTION.

- A. The installation of underground systems for the storage of petroleum products (including but not limited to oil, gasoline, kerosene, and any hazardous materials) shall be prohibited in the 100 year floodplain (Zones A, AO, AH, A1-30, A99, V and V1-30 on the Flood Insurance Rate Maps 250006-0005, prepared by the National Flood Insurance Program for the Town of Eastham). Storage system shall mean storage tank and all supply lines between storage tank and burner. Underground shall mean under the surface of the earth or under pavement, including cement floors of cellars or basements. Storage systems may be located in basements or cellars provided they are on or above the paved floor of the cellar or basement.
- B. Any new construction, alteration of structures or other development which is removed from the A or V zones by subsequent flood insurance map amendments shall only have to meet the requirements of its new zone designation.
- C. All subdivision proposals and other proposed new developments greater than fifty (50) lots or five (5) acres whichever is the lesser shall include in such proposals base flood elevation data.
- D. Subdivision proposals and proposals for other developments, including their utilities and drainage, are located and designed to be consistent with the need to minimize flood damage.

## ARTICLE I -- USE REGULATIONS

Floodplain District I is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains (currently Section 2102). Additionally any required federal permits must be obtained prior to the issuance of a development permit in the Floodplain District as follows:

- 1. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- 2. Prohibit man-made alteration of sand dunes and salt marshes within Zones V1-30, VE, and V which would increase potential flood damage.

3. Provide that all new construction within Zones V1-30, VE and V be located landward of the reach of mean high tide.
4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
5. There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Department of Public Works, Building Inspector, Board of Appeals and Fire Department for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.
6. The Building Inspector shall (a) review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution and Control Act Amendments of 1972, U.S.C. 1334, and (b) obtain and maintain records of elevation and floodproofing levels for new construction or substantial alteration within the flood district.

## ARTICLE II -- STATEMENT OF PURPOSE, EXISTING REGULATIONS

### SECTION A. -- STATEMENT OF PURPOSE

The purposes of the Floodplain District are to:

1. Ensure public safety through reducing the threats to life and personal injury.
2. Eliminate new hazards to emergency response officials.
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
5. Eliminate costs associated with the response and cleanup of flooding conditions.
6. Reduce damage to public and private property resulting from flooding waters.
7. Facilitate accurate insurance ratings and promote the awareness of flood insurance.

## SECTION B. -- EXISTING REGULATIONS

All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR 2102.0, of the Massachusetts Building Code which addresses floodplain and coastal high hazard areas.
- 310 CMR 10.0, Wetlands Protection Regulations, Department of Environmental Protection (DEP).
- 302 CMR 6.00, Inland Wetlands Restriction, DEP
- 302 CMR 4.00, Coastal Wetlands Restriction, DEP
- 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP
- Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

## ARTICLE III. -- FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

### SECTION A. -- FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Eastham Flood Insurance Rate Map (FIRM) issued by FEMA (successor to the U.S. Department of Housing and Urban Development, HUD) for the administration of the NFIP dated July 2, 1992 as Zone A, AE, AH, A1-30, A99, V, V1-30, VE, and if available the FEMA Flood Boundary and Floodway Map dated July 2, 1992, both maps which indicate the 100-year regulatory floodplain. The boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated July 3, 1986. The FIRM (and Flood Boundary and Floodway Map if available) and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.



#### ARTICLE IV. -- PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and comply with other requirements:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

#### ARTICLE V. -- DEFINITIONS

**ALTERATION** -- As applied to a building or structure, a change, modification, renovation or rearrangement in the structural parts or in the exit facilities or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**AREA OF SPECIAL FLOOD HAZARD** -- is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, AI-30, AE, A99, VO, V1-30, VE, or V.

**BASE FLOOD** -- means the flood having a one percent chance of being equaled or exceeded in any given year.

**COASTAL HIGH HAZARD AREA** -- means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V, V1-30, VE.

**DEVELOPMENT** -- means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT -- means floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP -- means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done later than 1987, floodway is designated on FIRM.)

FLOOD INSURANCE RATE MAP (FIRM) -- means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY -- means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODWAY -- means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR -- means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME -- means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, or other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term manufactured home does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION -- means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** -- means, for floodplain management purposes, structures for which the 'start of construction' commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, **NEW CONSTRUCTION** means structures for which the 'start of construction' commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**ONE-HUNDRED-YEAR FLOOD** - see **BASE FLOOD**.

**REGULATORY FLOODWAY** - see **FLOODWAY**.

**SPECIAL FLOOD HAZARD AREA** -- is the land in a community's floodplain subject to a one percent or greater change of flooding in any given year. The area may be designated on the FIRM as Zone A, AO, A1-30, AE, A99, AH, V1-30, VE.

**STRUCTURE** -- means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. For insurance coverage purposes, **STRUCTURE** means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL IMPROVEMENT** -- means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of a building commences, whether or not that alteration affects the external dimensions of the structure.

**ZONE A** -- means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

**ZONE A1-30 and ZONE AE** -- means the 100-year floodplain where the base flood elevation has been determined.

**ZONE AH and ZONE AO** -- means the 100-year floodplain with the flood depths of 1 to 3 feet.

**ZONE A99** -- means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONE V -- means special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE V1-30 and ZONE VE (for new and revised maps) -- means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

## SECTION V -- USES

In each zoning district, premises and buildings may be used for the following purposes only:

DISTRICT A -- One family dwellings and duplex dwellings; accessory buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles, stock and equipment;

- the storage of campers or trailers on the resident occupant's property by permit of the Selectmen;
- home occupations, service trades, and bed and breakfast, as defined in Section II of this By-law;
- agricultural farming, gardening, and greenhouses for the resident occupants' use;
- the keeping of livestock and poultry (with the exception of piggeries and the raising of mink and/or fox) to be restricted to the non-commercial family use of the resident occupant only and only so long as it is not injurious, noxious or offensive to the neighborhood;
- and agricultural, horticultural and floricultural uses on parcels of five (5) acres or more providing said use is the primary use and that all buildings and structures, except fences of less than five (5) feet in height, shall not be less than thirty (30) feet from the sidelines of any lot nor less than one hundred (100) feet from the sideline of any street or highway.

DISTRICT B -- Docks; wharves; party boat businesses; renting of row boats, motor boats, sail boats and fishing gear; boat building, storage and repair; sale of fish, fish bait, and fishing gear. No residences shall be allowed.

DISTRICT C -- Manufacturing, assembling, processing, packaging, storage and shipping of non-hazardous or non-toxic goods and materials; plumbing, electrical, carpentry or similar service and repair facilities; concrete batching plants; manufacturing of house framing, furniture and like products; repair shops for automobiles, trucks and marine equipment; contractors' yards; boat building, repairs and storage; rental of automobiles, trucks and trailers; wholesale bakeries; auction houses. Sales, retail or wholesale, shall be permitted so long as they are strictly incidental to the primary use and provided that a designated sales area, separate from the operational area, is maintained in order to provide for the protection and safety of customers. No residences shall be allowed.

Any light industry or heavy industry not specifically permitted above may be permitted by a grant of a Special Permit from the Zoning Board of Appeals. Upon application for a Special Permit to the Zoning Board of Appeals, the Board shall conduct a public hearing on said application within sixty-five (65) days after the filing of the application pursuant to Massachusetts General Laws, Chapter 40A, Section 9. A decision by the Zoning Board of Appeals based upon an application for a Special Permit shall be based upon an evaluation of all the evidence presented at the public hearing by the Petitioner and interested parties as it relates to the fulfillment of the spirit and intent of this By-law without substantial detriment to the public good or any neighborhood affected. Such permits may also impose conditions, safeguards, and limitations on the applied for use which are necessary to the fulfillment of the intent of this By-law without causing substantial detriment to the public good or to any neighborhood affected.

DISTRICT D -- Antique shops, craft and gift shops, hair styling and barber shops, offices, art galleries, banks, animal hospitals, kennels, funeral homes, nurseries and florists, fitness centers, lodges, retail stores and shops.

DISTRICT E -- Banks, professional offices, real estate offices, gift and craft shops, antique shops, furniture repair shops, and residences.

SEASHORE DISTRICT F -- Permitted Uses:

1. Conservation of land, water wildlife, vegetation, and other natural features and values.
2. Facilities deemed by the Secretary of the Interior to be necessary for the administration and public use and enjoyment of the Cape Cod National Seashore or deemed to be necessary by the Town of Eastham.
3. Recreation, including but not limited to, hunting, fishing, swimming and boating.
4. Gardening and traditional agricultural uses of cleared land, but excluding such objectionable uses as a piggery or the commercial raising of livestock, fur-bearing animals and poultry, or other uses injurious, noxious or offensive to the neighborhood.

5. Traditional commercial fishing activities, the opening of shellfish, and storage and use of fishing equipment.
6. Uses of existing dwellings as residences and accessory uses customarily incidental to the principal residential use on the same premises, provided such uses are not detrimental to a residential neighborhood and do not alter the essential character of the dwelling as a residence. Residential uses of dwellings may include the renting of rooms and furnishing of board by residents of the premises to overnight guests, if such uses do not alter the essential character of the dwellings as residences.
7. Customary home occupations as defined in the Town of Eastham Zoning By-Law, but this shall not include the use of accessory structures as stores or for the display of goods to the passing public.
8. Moving, alteration, enlargement, maintenance, or repairs of existing one-family residential dwellings or the erection of customary structures which will be accessory to the existing principal residential use provided that such improvements to existing dwellings and the erection of accessory structures will not increase the habitable space by more than fifty percent (50%) of the habitable space existing on September 1, 1959, nor the accessory space by more than 50% of the total habitable space, will afford not less than a fifty (50) foot setback from all streets measured at right angle with the line of the streets and a twenty-five (25) foot distance from abutters' property lines, and further do not alter the essential character of the dwellings as a residence.
9. Religious and educational use.
10. Municipal use and public facilities.
11. Detached, one-family dwellings and accessory structures, provided that no lot may be used for their construction which has a frontage of less than 150 feet, and an area of less than three (3) acres, and no dwelling or building may be located in such a manner as to provide less than a 50-foot setback from all streets measured at a right angle with the street line and a 25-foot distance from abutters' property lines.

Except as provided above, there shall be in the Seashore District F:

1. No burning of cover unless determined by the Fire Chief to be necessary for the welfare and safety of the Town and such burning shall be in accordance with the requirements of M.G.L., C.48, Section 13.
2. No filling of land, dumping, or removal of soil, loam, sand, or gravel in excess of five (5) cubic yards.

3. No cutting of timber except: (a) by an owner for the purpose of reasonably controlling brush or trees; (b) maintenance cutting in pastures; and (c) cutting for clearance or maintenance on rights of way including those pertaining to public utilities or public highways.
4. No buildings or structures.
5. No commercial or industrial venture or activities.
6. No drainage, damming or relocation of any water course except by a publicly authorized agency for the purpose of pest control.
7. No continuous storage of materials or equipment.

Applicants for variances or exceptions shall be promptly notified by the Board of Appeals that the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, property which is made the subject of a variance or exception that, in his opinion, fails to conform or is in any manner opposed to or inconsistent with the purposes of the Cape Cod National Seashore. The Secretary of the Interior shall be given notice by the Board of Appeals, of all applications or petitions made for variances or exceptions to the By-Laws for the Seashore District and he shall be provided notice by the Building Inspector of all applications for building permits involving the Seashore District within seven (7) days of receipt of the applications or petitions. The Secretary may be consulted at any time by zoning authorities or by the owner of 'improved property' regarding the effect of a proposed variance or exception upon the status of the affected property with regard to the suspension of the Secretary's authority to condemn. The Secretary, within sixty (60) days of the receipt of a request for such determination, or as soon thereafter as is reasonably possible, shall advise the owner or zoning authorities whether or not the intended use will subject the property to acquisition by condemnation.

Subsequently, to meet the requirements of the Act of Congress on August 7, 1961, the Secretary shall be given notice by the appropriate board of any variance, or exception, or building permit, granted or denied for the area within the Seashore District.

Approved by the Secretary of the Interior subject to an amendment to Article VIII which will specify a fifty (50) foot setback.

#### DISTRICT G -- Water Resource Protection District

1. One family dwellings and duplex dwellings, accessory buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles and equipment; the keeping of stock and the storage of campers or trailers on the resident occupants' property by permit of the Selectmen.

2. The above ground storage, for domestic residential use only, of the following:
  - a. Fuel oil, not to exceed 300 gallons (nominal 275 gallons);
  - b. Diesel fuel and/or gasoline, not to exceed two (2) ten (10) gallon tanks;
  - c. Compressed gas tanks, not to exceed one 500 gallon tank.
3. The domestic use of pesticides, herbicides, fungicides, rodenticides, and/or nitrate fertilizers on single or duplex residential parcels is allowed provided that:
  - a. The products before mentioned shall be acquired in commonly available retail package amounts only;
  - b. The products before mentioned shall be used and stored according to guidelines printed on or in the retail package by the product manufacturer;
  - c. The area of use and/or application of the products before mentioned on lawns, gardens, foundation plantings, and so forth, shall not exceed a total of ten thousand (10,000) square feet per residential parcel.

**DISTRICT H** -- Wellfield Protection District:

1. Construction, operation and maintenance of municipal water supply wells.
2. Protection of soil, water, plants and wildlife and other natural features and values.
3. Passive recreation.



## SECTION VI – NON CONFORMING USES

- A. Any lawful building, or any lawful use of a building or premises, or part thereof, existing or lawfully begun at the time the Zoning By-Law was originally adopted in the area in which such building or use is located, may be continued, subject to the provisions of this section.
- B. Discontinuance of any nonconforming use including a granted variance or Special Permit for a period of six (6) months shall extinguish any rights as a nonconforming use except that the Special Permit Granting Authority may within six (6) months after its extinguishment revive said nonconforming use by Special Permit for good cause shown and upon a determination that the re-establishment of the nonconforming use will not be detrimental to the neighborhood nor substantially derogate from the public welfare.
- C. A nonconforming single or two family residential structure may be altered if the Inspector of Buildings determines that the alteration will not increase the existing nonconforming nature of the structure. In making such determination, the Inspector of Buildings, after identifying the particular respect or respects in which the structure does not presently conform to the By-Law, shall consider whether the proposed alteration will either intensify any existing nonconformities or result in additional nonconformities.

If the Inspector of Buildings determines that a proposed alteration to a single or two family residential structure will increase the existing nonconforming nature of the structure, the applicant may seek a new determination from the Zoning Board of Appeals. If the Board of Appeals determines that the alteration will increase the nonconforming nature of the structure, no such alteration may occur unless the Zoning Board of Appeals issues a special permit for the alteration after finding that the alteration will not be substantially more detrimental to the neighborhood than the existing nonconformity and will not be detrimental to the public welfare.

- D. Other nonconforming uses and buildings or structures may be extended, enlarged or demolished by a Special Permit from the Special Permit Granting Authority upon a determination that such change, extension or alteration is not more detrimental than the existing nonconforming use, building or structure is to the neighborhood and that it will not be detrimental to the public welfare.
- E. Any nonconforming building or structure which has been damaged by fire or other cause to any extent, may be repaired or rebuilt to its original dimensions, provided the owner shall apply for a building permit and start operations for restoring or rebuilding of said premises within twelve (12) months after such catastrophe and further that said reconstruction comply with all other applicable State laws and regulations and that such construction is continued through to completion as continuously and expeditiously as is reasonable.

- F. Regardless of common ownership, any lot lawfully laid out by plan or deed duly recorded in the Barnstable County Registry of Deeds prior to the day of Zoning Change regarding minimum lot size, dated April 19, 1988, which is not protected by the Eastham Zoning By-law, Section IX, and which contains at least twenty thousand (20,000) square feet for a one family dwelling and at least thirty thousand (30,000) square feet for a two family dwelling shall be exempt from said Zoning Change enacted April 19, 1988.
- G. Conversion of an existing (or proposed) cottage colony to a single-family or two-family use under any type of ownership including, but not limited to, condominium ownership, cooperative ownership, or other forms of ownership where a structure or portion thereof is held in different ownership from the remainder of the structure or the land on which it is situated are not permitted unless the owner of any such property prior to the creation of or conversion to any single-family or two-family use under the aforementioned types of ownership does the following:
1. Obtains a special permit from the Board of Appeals of the Town of Eastham in compliance with Section XII (B) of this By-law and Massachusetts General Laws Chapter 40A, or any amendments thereto, and
  2. Obtains a finding and certification from the Eatham Board of Health that the septic system and the water supply system for said premises complies with Eastham's current health code requirements and/or as set forth in Title V of the Massachusetts Sanitary Code or any amendments thereto as it relates to new construction, and
  3. Executes a covenant with the Town of Eastham, to be recorded at the Barnstable County Registry of Deeds, covenanting and guaranteeing that other than one management unit, no units will be occupied or otherwise used during any time period commencing December 1 and ending March 31 of the following calendar year and for that same time period for each year thereafter. Hotels and motels may not be converted into single-family use under condominium-type or any other type of trust or stock ownership arrangement.

## SECTION VII -- ACCESSORY USES

- A. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with the principal use, may be permitted upon the issuance of a Special Permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
- B. Bed and Breakfasts, as defined in this By-Law, may serve a morning meal to overnight guests.

## SECTION VIII -- PROHIBITED USES

The following uses shall be prohibited in the Town of Eastham in Districts A, B, C, D, E, F, G and H:

- A. On-shore commercial facilities to service or support or accommodate off-shore exploration or drilling for fossil fuels, including oil and gas storage tanks, pipelines, warehouses, or dockside or heliports, airports, airstrips and all air support facilities whose purpose or intention or principal business is to accommodate, or service, or support the on-shore use of the Town of Eastham for off-shore exploration, drilling and transportation of fossil fuels including but not limited to oil and gas.
- B. Use of the following structures or units for human habitation except on issuance of a temporary permit by the Building Inspector under conditions hereafter specified: tents, house trailers, campers, quonset huts, portable or semi-portable buildings, or similar structures whether equipped with wheels or not; houseboats or equivalents on fresh water. The Building Inspector may issue a permit for the temporary use of any of the prohibited items for use during the period of construction of a dwelling or cottage. This permit shall not be valid for owner six months and shall not be renewable. All applicable regulations as to setback from lot lines must be complied with when locating any of these items. Sanitary facilities must receive approval from the Board of Health. All such items must be located on the lot on which construction is being done and must be removed prior to the granting of a Certificate of Occupancy for the permanent structure.
- C. Junkyards.
- D. Gambling establishments (except those permitted by the State or Special Permit Granting Authority).
- E. Retail sales, rentals or distribution of pornographic materials.
- F. Adult bookstores or adult motion picture theatres (as those terms are defined by the Massachusetts General Laws, Chapter 40A, Section 9A), except that such establishments are permitted by way of Special Permit from the Zoning Board of Appeals. For purposes of determining whether a Special Permit is granted or not upon application, no such establishments shall be within a one (1) mile radius of any other such adult bookstore or adult motion picture theatre. Such business or establishment shall only be allowed in Zoning District D upon the granting of a Special Permit.
- G. Hotels, Motels, Inns, and Resort and Conference Centers.
- H. Camps or campgrounds.

I. The following additional uses are prohibited in District G:

1. Commercial/industrial/business uses are prohibited in District G, including but not limited to: sanitary landfills; junkyards; septage or sewage treatment facilities, except those for single or duplex family residential use; car washes; gasoline stations; airplane, boat or motor vehicle repair shops; road salt stockpiles; dry-cleaning establishments; laundromats; photo processing establishments; metal plating or finishing shops; chemical laboratories; painting shops; wood finishing, refinishing or stripping shops; and any other use which involves the manufacture, storage, use, transportation or disposal of toxic and/or hazardous materials/waste and the storage of fuel oil, diesel oil and/or gasoline, for whatever use, except as allowed in Section V of this By-law.
2. Any use which creates impervious surfaces, including, but not limited to, building foot prints, paved drives, etc., which total more than ten percent (10%) of the lot area.
3. Underground storage tanks.

J. The following additional uses are prohibited in District H:

1. Commercial/industrial/business uses, including but not limited to: sanitary landfills; septage or sewage treatment facilities, except those for single or duplex family residential use; car washes; gasoline stations; airplane, boat or motor vehicle repair shops; road salt stockpiles; dry cleaning establishments; metal plating or finishing shops; chemical laboratories; painting shops; wood finishing, refinishing or stripping shops; junk and salvage yards; and any other use which involves the manufacture, storage, use, transportation or disposal of toxic and/or hazardous materials/waste, and the storage of fuel oil, compressed gas, diesel fuel and/or gasoline, for whatever use, except as allowed in Section V of this by-law
2. The creation of impervious surfaces, including but not limited to building foot prints, paved drives, etc.
3. The removal of natural vegetation except as required for forest management or the creation of pathways for passive recreation.
4. Underground storage tanks.
5. The use or storage of toxic/hazardous material/waste for whatever purpose.

The following uses shall be prohibited in Districts A, B, F, G and H in the Town of Eastham: the operation of any business for the transporting, hauling, or storage or containerization of hazardous materials or wastes, refuse, septage, or fuels; or the keeping of any vehicle for those uses.

## SECTION IX -- INTENSITY REGULATIONS

### A. LOT SIZE

1. In District A and E, no single family dwelling shall be built on a lot with an area of less than 40,000 square feet nor any two (2) family dwelling on a lot with an area of less than 80,000 square feet.
2. In Districts B, C, D, and E, no business structure shall be built on a lot with an area of less than 40,000 square feet.
3. In the Seashore District F, no dwelling shall be built upon a lot with an area of less than three (3) acres. All lots in the Seashore District F shall have frontage of at least 150 feet and all dwellings and buildings shall be located to provide at least a 50 foot setback from all streets measured at a right angle with the street line and a 25 foot distance from abutters' property lines.
4. In District G, no single family dwelling shall be built on a lot with an area of less than three (3) acres, nor any two family dwelling on a lot with an area of less than six (6) acres. Setback requirements shall conform to Section IX. B. 1 of this By-law. Additionally, the total residential building floor area shall not exceed five thousand (5,000) square feet, and the total floor area for all accessory buildings shall not exceed two thousand (2,000) square feet. All new lots within District G shall have frontage of at least one hundred fifty (150) feet on an accepted public way or private way, which meets current Planning Board requirements for road layouts.
5. In order to comply with the minimum square foot requirement, a lot must be a closet plot of land having a definite area and perimeter and having a shape number not exceeding the numerical value of 22, except that a lot may have a shape number larger than 22 provided that the site intended for building, is contained within a portion of said lot, which said portion meets the zoning requirements of the area in which it is located and has a shape number not exceeding 22. The shape number shall be the number resulting from the division of the square of the perimeter by the area of the lot or said portion thereof. One hundred (100) percent of the area required to satisfy the minimum square foot requirement must be contained within the lot and must be contiguous upland, and shall have a minimum of fifty (50) feet frontage.

6. Section IX requirements shall not apply to lots established prior to the adoption of this By-law provided such lots met all requirements of the Zoning By-Law in force at the time of adoption of this By-law. Furthermore, these requirements shall not apply to lots in single ownership at the time of adoption of the Zoning By-Law by the Town of Eastham at the annual Town Meeting held on February 16, 1952 provided these lots are identified by deeds of record in the Barnstable County Registry of Deeds and that any structures to be placed on such lots can comply with all requirements of the Massachusetts State Building Code and to the Regulations for Disposal of Sewage as adopted by the Board of Health on April 18, 1955, or any amendments thereto.

**B. SETBACK REQUIREMENTS:**

1. The building lines for structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet; and if on land of single ownership, they shall not be nearer to each other than fifty (50) feet. The building lines of detached buildings which are necessary to structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet. Additionally, detached buildings shall not be closer than eight (8) feet to any other structure on the lot.
2. In Districts B, D, and E, all new construction, including residential, commercial, or other, shall be set back a minimum of 100 feet from all ways. Side and rear setbacks shall not be less than twenty-five (25) feet.
3. In District C, all new construction shall be set back a minimum of fifty (50) feet from all ways. Side and rear setbacks shall not be less than twenty-five (25) feet.
4. Pursuant to Massachusetts General Laws, Chapter 40A, Section 6, those pre-existing, nonconforming commercial structures in District A which seek to be altered, renovated, amended, modified, or expanded shall conform to the setback requirements of Section IX. B. 2 of this By-law.
5. Section IX requirements shall not apply to any lot for single or two family residential use which, at the time of the adoption of this By-law, was lawfully in existence by way of recording or endorsement. Such lot must conform with the setback requirements then in existence at the time of the creation of the lot.

## SECTION X -- PARKING REQUIREMENTS

- A. Off-street parking shall be provided to service all parking demand created by new construction, whether through new structures or additions to pre-existing structures, or through change of use creating higher parking demand. An area of 300 square feet of appropriate dimensions for the parking of a motor vehicle, including maneuvering area, and aisles, shall be considered as one (1) off-street parking space.
- B. TABLE OF REQUIREMENTS -- The following minimums must be met unless these are reduced on Special Permit from the Special Permit Granting Authority, upon determination that special circumstances render a lesser provision adequate for all parking needs:
1. Hotel, Motel, Inn, Guest House, Bed and Breakfast, or Resort and Conference Center: one (1) space per guest unit.
  2. Offices, Stores: one (1) space per 150 square feet floor area accessible to the public.
  3. Restaurants: one (1) space per four (4) seats.
  4. Coffee Shops: one (1) space per two (2) seats.
  5. Industrial: one (1) space per 1 1/4 employees per shift, with no on-street parking permitted.
- C. SURFACING: Required parking areas shall be paved with bituminous concrete according to current Planning Board regulations, unless service a one (1) or two (2) family dwelling, or unless authorized to be paved with an alternative surface on Special Permit by the Special Permit Granting Authority. Such authorization may be granted by the Special Permit Granting Authority upon its determination that drainage, erosion, siltation, dust, and appearance will be satisfactorily controlled. Where an alternative to bituminous concrete is authorized on Special Permit, the following shall be complied with:
1. Access drives shall be paved with bituminous concrete (unless the Special Permit Granting Authority shall grant a Special Permit for alternative surfacing), or other pavement authorized by the Planning Board for at least twenty (20) feet from the edge of the paved street unless the street itself is not paved.
  2. Grading and materials selection shall assure that surface materials will not be carried into the street, and that drainage is positively provided for on-site.

3. If there are six (6) or more parking spaces, there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.
- D. EGRESS -- Parcels with six (6) or more parking spaces shall not have more than two (2) driveway openings onto any street unless each opening is separated from all others on or off the parcel by more than 200 feet measured from center to center. No driveway opening shall exceed 30 feet in width at the property line. Parking areas with six (6) or more parking areas shall be so designed and located that their use does not require backing onto a public way.
- E. OFF-STREET QUEUES -- Establishments having drive-in facilities which from time to time have queues of vehicles awaiting service shall have comparably sufficient on-site space for such queues without requiring cars to stand on any public way or across any public sidewalk.
- F. LOADING -- Off street loading facilities and space must be provided to service all needs, and so sized and arranged that no trucks need back onto or off a public way, or be parked on a public way while loading, unloading, or waiting to do so.
- G. PARKING AND LOADING AREA SETBACKS -- The required distance between off-street parking and loading areas and any street line shall be five percent (5%) of lot depth from the street, but no such requirement shall be greater than 50 feet nor less than 15 feet. Off-street parking servicing non-residential districts shall not be allowed within 30 feet of a residential district.
- H. HANDICAPPED ACCESS -- All such parking shall comply with all State and Federal statutes or regulations having Handicapped Access for Parking as its subject matter.



## SECTION XI -- LANDSCAPING REQUIREMENTS

In Districts B, C, D, and E, excluding one (1) and two (2) family dwellings, the following landscaping standards shall be in effect:

- A. **BUILDINGS** -- Along the front of the building parallel to the road, there shall be planting for a minimum width of four (4) feet with curbing and/or sidewalk (minimum width four feet) adjacent to parking and driveways. Planting may be in the form of planters or sunken planting beds, shrubs, or ground cover. Outdoor dining areas shall have suitable shrubs or suitable vegetative barrier to create a hedge at least 36" high between these areas and all roads. The outdoor dining areas shall conform to the required setback of buildings from all roads.
- B. **ROAD BOUNDARIES** -- Shrubbery and/or grass shall be planted and maintained to a minimum width of twenty (20) feet parallel with road except in the areas required for entrance and exit. Shrubs shall not exceed 18" in height, and shall be planted a maximum of six (6) feet apart. Shrubbery shall be located in such a manner so as to not obstruct vision of any entering or exiting vehicle.
- C. **PARKING LOTS** -- Customer parking lots intended for the use of twenty (20) vehicles shall have areas of shrubbery, trees and/or grass containing a minimum of 400 square feet for each twenty (20) vehicles or fraction thereof. These areas are to be suitable dispersed throughout the parking area, and are in addition to the requirements of Section XI. B. Above.
- D. **ABUTTING PROPERTY** -- There shall be suitable screening from adjacent residential property.

## SECTION XII -- ADMINISTRATION

- A. BOARD OF APPEALS -- There shall be a Board of Appeals consisting of five (5) members, and two (2) alternates, all to be appointed by the Board of Selectmen, with the powers as provided in Massachusetts General Laws, Chapter 40A, Section 12, which shall act on all matters within its jurisdiction under this By-law in the manner prescribed in said Chapter 40A of Massachusetts General Laws.
- B. SPECIAL PERMITS -- Special Permits shall only be issued after a public hearing; which shall be held within 65 days after the filing of a special permit application with the Town Clerk, or special permit granting authority as may be required under Chapter 808 of the Acts of 1975, as amended.
- C. Construction or operations under a building or special permit shall conform to any subsequent amendment or the ordinance or by-laws unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- D. All special permits and variances shall lapse one (1) year from date of issue unless construction or operation under said permit has commenced. If a matter is under court appeal, a special permit or variance shall be deemed issued on the date that a final court determination enters in the case.
- E. This By-law shall be enforced by the Building Inspector. The Building Inspector may resort to the Courts for injunctions or other appropriate remedies.
- F. The penalty for violation of any provision hereof shall be a fine of not more than \$500.00 for each offense. Each violation and each day of violation shall constitute a separate offense, punishable by fine as aforesaid.

### **SECTION XIII -- REVIEW**

Any applicant aggrieved by a decision of the Board of Appeals denying either the application for a Special Permit or a variance on the grounds that such denial constitutes a permanent or temporary taking by eminent domain without just compensation and violates the Fifth Amendment of the Constitution of the United States as applied through the Fourteenth Amendment, shall be required to resubmit to the Board an application for a Special Permit or variance specifying in detail the specific use for which the Special Permit or Variance is sought. The Board shall take evidence at a hearing or hearings necessary to determine whether the denial does constitute such a taking, applying the most recent legal standards, and shall render a written decision stating its reasons for its decisions. Said written decision shall be rendered within one hundred and twenty (120) days from the date that all hearings are closed.

### **SECTION XIV -- VALIDITY**

- A. **VALIDITY** -- The invalidity of any sentence, provision, or section of this By-law shall not be construed to invalidate any other part thereof.
- B. **AMENDMENTS** -- This By-law may be altered, repealed, or amended in accordance with the law.

## TOWN OF EASTHAM -- SIGN CODE

### SECTION I -- DEFINITIONS/GENERAL

- A. **TEMPORARY SIGNS AND BANNERS** -- Temporary signs and banners advertising coming public events of civic, philanthropic, educational, charitable, political or religious nature are allowed with the following provisions:
1. Must register with the Building Department at Town Hall.
  2. Must have permission of the owner of the land on which the sign or banner is to be placed (if it is town-owned land, permission must be obtained from the Board of Selectmen).
  3. Size restricted to six (6) square feet each side excluding the supporting frame for ground-mounted sign with overall height not to exceed five (5) feet, and three (3) feet by twenty (20) feet for hanging banner-type signs.
  4. Shall not be placed upon sidewalk or in a position so as to obscure the visibility of vehicular and/or pedestrian traffic.
  5. Sign shall not be displayed earlier than fourteen (14) days prior to the event and shall be removed twenty-four (24) hours after the event has occurred, except this time period for removal may be extended to forty-eight (48) hours if the day following an event is Sunday or a holiday.
  6. No more than six (6) such signs and/or banners advertising the identical specific public event shall be allowed throughout the Town.
- B. **PERMANENT SIGN** -- Permanent signs shall mean all advertising devices or insignia, whether lettered or not, designed to promote a business, the sale of a product or a service. Signs must be supported by a frame or post erected for that purpose, and such support structures shall be included in the overall size of the sign.
- Permanent signs identifying a home occupation shall be limited to the display of not more than one double-faced sign. All signs shall pertain to the resident occupant's business or profession or to the use of the property as authorized under Section IV of the Zoning By-law and must be erected on the resident occupant's property.
- Name signs identifying the resident occupant of a residential property shall not exceed two (2) square feet and shall be exempt from registration and fees.
- C. **SYMBOL** -- A conventional symbol or emblem which represents an idea.

- D. **BUSINESS UNIT** -- A separately owned and operated business with a minimum of five hundred (500) square feet of floor space.
- E. **STREET SIGNS** -- Street name signs for private ways shall be of the type used by the Town of Eastham, or of equivalent legibility and appearance and shall be erected at least two (2) feet from the outer edge of the street shoulder. Ladder-type signs at street intersections listing names of residents of the street may be erected provided a permit is granted by the Building Inspector under the procedures of Section II. Such signs must be supported by a frame or post erected for that purpose. Regardless of the number of names on the sign, the sign shall be considered as one sign for purposes of fees. Ladder-type signs shall comply with the size regulations for the zoning district in which the sign or signs are erected. All street signs shall be located on the right as the street is entered.
- F. **FREE-STANDING SIGNS** -- A free-standing sign, including supports, shall not exceed ten (10) feet in height from ground elevation nor have a horizontal dimension greater than ten (10) feet. Free-standing sign area shall include any and all accessory or supplementary signs such as 'open', 'closed', 'vacancy', 'no vacancy', credit card names, and endorsement names.
- G. **PROHIBITIONS** -- The following signs shall not be permitted:
1. Portable or moveable signs, other than temporary signs as defined herein,
  2. Any sign affixed to a tree or other natural feature,
  3. Illuminated signs having a glare distracting to drivers or any exposed neon or gas-filled signs or illumination that will conflict with the ability to see traffic lights or cause any hazardous condition therefrom,
  4. Flashing, rotating or oscillating supplementary lighting,
  5. Streamers, posters, pennants and similar promotional devices,
  6. Any sign erected on public land, and
  7. Contractor's and builders' signs after conveyance or completion of work.

H. REAL ESTATE SIGNS -- The following conditions shall apply:

1. Sign must be on lot for sale,
2. No real estate sold signs shall remain after conveyance,
3. All real estate signs shall be removed within forty-eight (48) hours after conveyance.
4. Not more than one (1) real estate sign per house or lot which is for sale,
5. Only free-standing signs shall be permitted,
6. Open house signs shall be removed at the end of the day, and
7. No fees are required.

I. All signs must conform to the dimensions allowed in the particular zone in which the sign is located, as indicated

**TYPE OF SIGN**

**ALLOWED IN DISTRICTS**

Not more than two (2) freestanding signs at least 300' apart.

D

Business on two (2) or more roads, one sign on each road.

D

Multiple businesses in one building, one sign for each business on building

B,C,D,E

Free-standing signs, single or multiple businesses --each sign not more than 60 square feet one side, total 120 square feet.

D

If Free-standing sign exists, sign on building or buildings not to exceed 24 square feet per business.

B,C,D,E

If no free-standing sign exists, sign on building or buildings not to exceed 50 square feet per business.

B,C,D,E

Single sign, free-standing -- 12 square feet per side, total 24 square feet.

E

Ladder sign, residential -- name on one side only, off-premise, 3' wide x 8' high.	A,D,F,G
Ladder sign, business -- name on one side only, off-premise, 4' wide x 10' high.	C,D
Home occupation, must be erected on owner's property, 2 square feet per side, total 4 square feet.	A,D,E,F
Existing sign size permitted	A
Permit and fee regulations apply	A,B,C,D,E,F,G

- J. Off-premise signs will be allowed provided permission is granted by the off-premise property owner. Off-premise signs shall be ladder-type for two or more businesses. Businesses with frontage on Route 6 will not be permitted to have off-premise signs.
- K. Business franchises shall be allowed signs by Special Permit.
- L. Political signs shall only be displayed for fourteen (14) days prior to the date of the election they pertain to, and shall be removed within seven (7) days after said election.
- M. EXCEPTIONS -- Nothing in this Code shall modify or in any way control the existing rights of the Secretary of the Interior to erect signs of federally owned property as specified in Section III. The right of the Town and State to erect signs on public property for traffic control, identification signs, posting of regulations, and similar notices and/or signs shall not be affected by this Code provided that all signs erected by the Town shall comply with the requirements of the zoning district in which the sign is erected.

## SECTION II -- PERMITS

- A. PERMIT REQUIRED -- In all districts, a permit for the erection of any sign or signs shall be issued by the Building Inspector.
- B. APPLICATION FOR PERMIT -- Application for permit for erection of a permanent sign shall be accompanied by a sketch and/or photograph showing the material, design and size, type of lettering, colors and illumination, and a plot plan showing all roads, ways, driveways, parking areas, buildings, etc., of the site where the sign shall be erected. Location for the sign shall be indicated on the plot plan. The fee for this permit shall be \$20.00 per sign.

- C. **APPROVAL OF PERMIT** -- Upon receipt of an application for the erection of a sign, the Building Inspector may then issue a permit for the erection of a sign or signs in accordance with this By-law. The permit number shall be lettered in a lower corner of each sign in such a manner as to be legible from the ground level. Application for a permit for erection of a sign must be acted upon within thirty (30) days from receipt of the application.

### **SECTION III -- SIGN REGULATIONS, SEASHORE DISTRICT F**

The display of not more than one single-faced or one double-faced sign on property of a residential occupant which shall pertain to the occupancy, sale or rental of such property as herein authorized. Such signs shall not exceed two (2) square feet in area and shall not apply to facilities deemed by the Secretary of the Interior to be necessary on federally owned property for administration and public use and enjoyment of the Cape Cod National Seashore of the Town of Eastham on Town-owned land.

### **SECTION IV -- REGISTRATION OF EXISTING SIGNS**

All permanent signs in existence at the effective date of this By-Law shall be registered with the Building Inspector in the manner provided in Section II. B., Application for Permit, within twelve (12) months of the effective date. The Building Inspector shall issue a permit for such signs when such signs fully comply with the requirements of the zoning district in which the sign is erected. Existing businesses made nonconforming by the adoption of the Zoning By-Law shall be entitled to all signs permitted to conforming businesses. The Building Inspector shall issue permits for such signs in the same manner as for signs for conforming businesses. All fees shall be waived for the aforesaid twelve (12) month period.

### **SECTION V -- NONCONFORMING SIGNS**

All nonconforming signs shall be discontinued within one (1) year of the effective date of this By-Law. A replacement, conforming sign shall require a permit as in Section II of this Code, but all fees shall be waived.



## **SECTION VI -- ADMINISTRATION**

- A. **APPEAL** -- An applicant shall have the right of appeal to the Special Permit Granting Authority for a variance from any section of this Code and also from the refusal by the Building Inspector to issue a permit for the erection of a sign or signs, pursuant to the Massachusetts General Laws.

The Special Permit Granting Authority may consider in their deliberations as a basis for granting of waivers favorable recommendations from the Planning Board and the Building Inspector.

- B. **ENFORCEMENT** -- This Sign Code By-law shall be enforced by the Building Inspector. The Building Inspector may resort to the Courts for injunctions or other appropriate remedies.
- C. **PENALTY** -- Any permanent sign erected without the issuance of a permit for this sign and any failure to comply with the requirements of the Sign Permit Registration and Nonconforming Sections of this Code shall constitute a violation of this Code. Penalty for such violation shall be a fine of not more than \$500.00 for each violation. Each violation and each day of violation shall constitute a separate offense, punishable by fine as aforesaid.

## **SECTION VII -- VALIDITY**

- A. **VALIDITY** -- The invalidity of any sentence, provision or section of this Sign Code shall not be construed to invalidate any other part thereof.
- B. **AMENDMENTS** -- This By-law may be altered, repealed, or amended in accordance with the law.

## APPENDIX -- ZONING DISTRICT BOUNDARIES

### DISTRICT A:

All land not covered by any other district.

### DISTRICT B:

All Town-owned land in the Rock Harbor area, bounded on the north by Dyer Prince Road and the south lot line of B54, Lot 34; on the east and south by Rock Harbor; and on the west by Cape Cod Bay.

### DISTRICT C:

Bounded on the north by the southerly lot line of Lots B41-1Y and BRC, the southerly and easterly lot lines of Lot B41-1B-4, and the southerly side line of Brackett Road; on the east by the westerly side line of the Cape Cod Rail Trail/former Penn Central Railroad right-of-way; on the south by the southerly lot line of Lot B41-6B & T; and on the west by the westerly lot line of Lots 41-6B and T, B41-6C, B41-1S, B41-1T, B41-U, B41-1AA, B41-1V-2, and from the northwest corner of Lot B41-1V-2 to the southwest corner of Lot B41-1Y and the point of beginning.

### DISTRICT D:

EAST PORTION: Excluding land in District C above, bounded on the north by the north lot line of B32-4c, B32-5A and B32-6; on the east by the Cape Cod Rail Trail/former Penn Central Railroad right-of-way; on the south by Orchard Road; and on the west by Route 6.

WEST PORTION: Bounded on the north by the north lot line of B35, Lot NV29; on the east by Route 6; on the south by the south lot line of B41, Lot FS-1; and on the west by Massasoit Road, Oak Road, and the west lot lines of B35, Lots B35-12D, B35-12B, and B35-NV29; and Lots EGB-B, EGB-C, EGB-1, EGB-2, EGB-3, and B40 4-1.

### DISTRICT E:

EAST PORTION: Bounded on the north by the Cape Cod National Seashore; on the east by the Cape Cod National Seashore; on the south by the south lot line of B6, Lots RWE4 and B6-73D; and on the west by Route 6.

WEST PORTION: Consists of the lots B7-15C, B7-14D, VRD-7, VRD-6, B7-14A, B7-14B, B7-12B, and B7-13.

#### DISTRICT E:

The Seashore District, bounded on the east by the Atlantic Ocean and Town Cove; on the north by the Wellfleet Town Line at its intersection with the right-of-way line of a power transmission line; thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road; thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road; thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road; thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road; thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road; thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road; thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of Route 6; thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham Town Hall property; thence easterly to a point one-tenth of a mile from Route 6; thence turning and running in a generally southerly direction paralleling the general alignment of Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Pence Road extended; thence southeasterly along said stream to the Orleans Town Line.

#### DISTRICT G:

The Water Resource Protection District, bounded on the north by the Wellfleet Town Line; on the east by the westerly boundary of the Cape Cod National Seashore; on the southeast by the westerly property line of Lot B28-84; on the south by the southerly property lines of Lots B28-18 and B28-17; on the southwest by the easterly sideline of Nauset Road (a public way); on the west by the easterly sideline of the Commonwealth of Massachusetts parcel B1-3 (Cape Cod Rail Trail/former Penn Central Railroad right-of-way), back to the point of beginning.

Boundaries as indicated on Eastham's Assessor's Map, revised January 1, 1991, sheets 2,3,5 and 6 as prepared by Nickerson & Berger, Registered Land Surveyors and Professional Engineers of Orleans, Massachusetts.

## DISTRICT H:

The Wellfield Protection District, beginning at a point on the easterly sideline of Nauset Road (a public way) at the intersection of the northwesterly boundary line of parcel 33 E 6387 and northerly boundary line of parcel 34 E 6438 to the westerly sideline of Ocean View Drive (a public way); thence commencing at the easterly sideline of Ocean View Drive and continuing easterly along the northerly boundary line of parcel 34 E 6438 to the mean high water line of the Atlantic Ocean; thence southerly along said mean high water line of the Atlantic Ocean to its intersection with the southerly boundary line of parcel 34 E 8643; thence westerly along said southerly boundary line of parcel 34 E 8643 to the easterly sideline of Ocean View Drive; thence northerly along this easterly sideline of Ocean View Drive up to the intersection with the southerly sideline of Atlantic Avenue (a paper road); thence commencing at the westerly sideline of Ocean View Drive and continuing westerly along the southerly sideline of Atlantic Avenue and including parcel 34 E 6436 onward to the northwesterly corner of parcel 34 E 6424; thence southerly along the westerly boundary line of parcel 34 E 6424 to the intersection with the northerly boundary line of parcel 33 E 6322; thence westerly along said northerly boundary line of parcel 33 E 6322 to the easterly boundary line of parcel 33 E 6301; thence northerly along said easterly boundary line of parcel 33 E 6301 to the southerly sideline of Atlantic Avenue (a paper road); thence westerly along said southerly sideline of Atlantic Avenue to the easterly sideline of Nauset Road; thence northerly along said easterly sideline of Nauset Road to the point of beginning.

Boundaries are indicated on Eastham's Assessor's Map, revised January 1, 1991, sheets 9 and 24 as prepared by Nickerson and Berger, Registered Land Surveyors and Professional Engineers of Orleans, Massachusetts.

1. Accepted at Special Town Meeting April 19, 1988  
Article 1 - Total By-Law Revision  
Approved by the Attorney General July 28, 1988.
2. Amendments accepted at Special Town Meeting October 25, 1988  
Article 43 - Section VIII - Prohibited Uses  
Article 44 - Section VIII - Prohibited Uses  
Article 45 - Section IX.B - District C, New Construction  
Article 46 - Section IX.B - Public Event Signs  
Article 48 - Sign Code, Section G. Line 1 - Political Signs  
Article 49 - Sign Code, Section 11.C - Approval of Permit  
Article 50 - Sign Code, Section IV - Permanent Signs  
Approved by the Attorney General January 30, 1989.
3. Amendments accepted at Annual Town Meeting May 3, 1989  
Article 41 - Section II - Definitions - "Cabin"  
Article 42 - Section II - Definitions - "Cottage"  
Article 43 - Section IX.4 - Lot size  
Article 44 - Section IX.B.1 - Setback Requirements  
Article 45 - Section IX.B.2 - Setback Requirements  
Article 46 - Section IX.B.4 - Setback Requirements  
Article 47 - Appendix - Zoning District Boundaries  
Article 48 - By-Law & Sign Code - Establishing new District "D" Wellfield Protection  
Article 49 - By-Law & Sign Code - Establishing new District "H" Wellfield Protection  
Approved by the Attorney General August 24, 1989.
4. Amendments accepted Annual Town Meeting May 7, 1990  
Article 62 - Section II - Definitions - "Home Occupation"  
Article 63 - Section II - Definitions - "Service Trade"  
Approved by the Attorney General November 26, 1990.
5. Amendments accepted at Annual Town Meeting May 4, 1992  
Article 39 - Section II - Definitions "Demolition"  
Article 40 - Section VI.C - Non-conforming Uses  
Article 41 - Section IX. - Intensity Regulations, A. Lot Size 6.  
Article 42 - Section IX. - Intensity Regulations, B. Setback Regulation 5.  
Article 43 - Section IX. - Intensity Regulations, A. Lot Size 5.  
Article 44 - Section IX. - Intensity Regulations, A. Lot Size 4.  
Article 45 - Appendix - Zoning District Boundaries - District "C"  
Article 46 - Appendix - Zoning District Boundaries - District "G"  
Article 47 - Appendix - Zoning District Boundaries - District "H"  
Article 48 - Section II - Definitions - "cottage colony"  
Article 49 - Section II - Definitions - "cottage"  
Approved by the Attorney General September 9, 1992.

6. Amendments accepted at Annual Town Meeting May 3, 1993
  - Article 28 - Section IV - Flood Plain Zoning
  - Article 29 - Section V - District "C"
  - Article 30 - Sign Code, Section 1 - Definitions/General
  - Article 31 - Sign Code, Section 1 - Definitions/GeneralApproved by the Attorney General August 18, 1993.
7. Amendments accepted at Annual Town Meeting May 2, 1994
  - Article 18 - Section VI - Non-conforming Uses
  - Article 19 - Sign Code, Section 1 - Definitions/General
  - Article 20 - Section II - Definitions, "Alteration"Approved by the Attorney General August 17, 1994.
8. Amendments accepted at Annual Town Meeting May 1, 1995
  - Article 22 - Sign Code, Section 1 - Definitions/GeneralApproved by the Attorney General - Pending (5/31/95)

**TOWN OF EASTHAM**

**SUBDIVISION REGULATIONS**





# TOWN OF EASTHAM – SUBDIVISION REGULATIONS

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## **TOWN OF EASTHAM**

### **SUBDIVISION REGULATIONS**

#### **SECTION I -- AUTHORITY**

Under the authority vested in the Planning Board of the Town of Eastham by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Eastham. Such rules and regulations shall be effective on and after the 1st day of April, 1954, as amended.

#### **SECTION II -- GENERAL**

##### **A. DEFINITIONS:**

'Subdivision' shall mean the division of a tract of land into two or more lots in such a manner as to require provision for one or more ways, not in existence when the Subdivision Control Law became effective in the Town of Eastham, to furnish access for vehicular traffic to one or more such lots. This definition shall include re-subdivision.

'Board' shall mean the Planning Board of the Town of Eastham.

##### **B. PLAN BELIEVED NOT TO REQUIRE APPROVAL:**

Any person who wishes to cause to be recorded in the Registry of Deeds, or to be filed with the Land Court, a plan of land, and who believes that his plan does not require approval under the Subdivision Control Law, may submit his plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. The Planning Board must receive two (2) copies of all Approval Not Required plans. These plans shall be prepared by a Registered Land Surveyor.

If the Board determines that the plan does not require approval, it shall without a public hearing and within fourteen (14) days of submission, endorse on the plan the words 'Planning Board Approval Under Subdivision Control Law Not Required, no determination of compliance with zoning requirements has been made or is intended.' Said plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action. After endorsement, the applicant shall return two (2) signed copies of the plan to the Board.

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within fourteen (14) days of submission of said plan, so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination.

An examination fee of \$50.00 (fifty dollars) shall be required for each submission of 'Approval Not Required' plans.

C. SUBDIVISIONS:

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within this Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of each subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

D. ROAD ACCEPTANCE STANDARDS:

1. Existing Unimproved Private Way:

An existing unimproved private way shall be a way established prior to the adoption of this regulation that is not cleared, graded, drained, hardened or surfaced. Before the Board of Selectmen shall act on a petition for the acceptance by the Town of such a way, the petitioners shall have prepared by a Registered Land Surveyor, a clear and legibly drawn plan, to a suitable scale, in black India ink on tracing cloth. This plan shall contain the following information:

- a. Location of the road in respect to all adjacent or intersecting roads, public and private;
- b. Layout of the road showing all necessary dimensions to reproduce the road on the ground;
- c. Drainage facilities and/or drainage easements;
- d. Names and addresses of all abutters; and
- e. Name of owner (s).

The petitioners shall install sufficient permanent concrete bounds to define the road. The petitioners shall also be required to post a performance bond with the Town of Eastham assuring that if the road should be accepted by the voters of the Town of Eastham, all the requirements specified by the design standards would be met. All costs of preparing plans, procurement of bonds and construction of the road or way to meet the Design Standards shall be borne by the petitioners. Design Standards shall be those shown under Subdivision Regulations, Section IV, Design Standards.

2. Existing Improved Private Way:

An existing improved private way shall be a way established prior to the adoption of this regulation that has been constructed in accordance with the Town of Eastham standards existing at the time of construction including clearing, grading, hardening, black topping and drainage. The Board of Selectmen may act on a petition for the acceptance of such a way without requiring any or all of the requirements listed in Section II. D. 1 if the petition is approved by the Planning Board and the Highway Surveyor.

3. Upon approval by the Board of Selectmen of a petition for Town acceptance of a private way under the conditions stated in either Section II. D. 1 or II. D. 2, the Selectmen shall submit an article to the next Annual Town Meeting to the voters of the Town for their action on the petition.

4. The Board of Selectmen may waive any requirements of the Design Standards listed in Section II. D. 1 or any deviation from Town standards listed in Section II. D. 2 that, in their opinion, would not be detrimental to the Town of Eastham. If any such waiver will result in an expenditure of public monies to accomplish the requirements waived, the Board of Selectmen must present this cost to the Town Meeting acting on the petition for acceptance of the private way.

5. Prior to the acceptance of a road by the Town, all catch basins shall be cleaned by the petitioners and shall be in working condition.

## **SECTION III -- PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS**

### **A. PRELIMINARY PLAN**

#### **1. General**

A Preliminary Plan of a subdivision shall be submitted by the subdivider for the discussion and tentative approval by the Board.

#### **2. Contents**

The Preliminary Plan may be drawn on tracing paper with pencil at suitable scale and two prints shall be filed at the office of the Board. Said Preliminary Plan should show sufficient information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the Definitive Plan. Such information will include major site features such as existing stone walls, fences, buildings, large trees, rock ridges, and outcroppings, swamps, and water bodies and existing topography as required, together with the information required for the Definitive Plan (Section III.B.2 Items a-d, inclusive). During discussion of the Preliminary Plan the complete information required for the Definitive Plan (Section III.B.2, Contents) will be developed.

#### **3. Tentative Approval**

The Planning Board may give such Preliminary Plan its tentative approval, with or without modification. Such tentative approval does not constitute approval of a subdivision, but it does facilitate the procedure in securing final approval of the Definitive Plan.

#### **4. Filing Fee**

A filing fee of \$50.00 (fifty dollars) will be required with each preliminary plan.

### **B. DEFINITIVE PLAN**

#### **1. General**

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

- a. An original drawing of the Definitive Plan and two contact prints thereof, dark line on white background. The original drawing will be returned after

approval or disapproval.

- b. A properly executed application form (to be secured from the Town Clerk).
- c. A filing fee of \$50.00 (fifty dollars) plus \$50.00 (fifty dollars) per lot will be required for approval of each Definitive Plan of a subdivision.

The applicant shall file a copy of the completed application form and a copy of the plan with the Town Clerk by hand delivery or certified mail.

## 2. Contents

The Definitive Plan shall be prepared by a Registered Land Surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one inch equals forty feet or such other scale as the Board may accept, to show details clearly and adequately. Sheet size shall preferably not exceed 24" by 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

- a. Subdivision name, boundaries, north point, date and scale;
- b. Name and address of record owner, subdivider and surveyor;
- c. Names and addresses of all abutters as they appear in the most recent tax list;
- d. Profiles and typical cross sections of proposed ways or streets. This information may be on the same sheet as the Definitive Plan or on a separate sheet. This requirement may be waived on review of the Preliminary Plan if the Board determines such information is not necessary. The Definitive Plan shall indicate the proposed layout of drainage systems, including details or specifications of drainage structures, piping and other materials;
- e. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. All bearings to be referred to Massachusetts prime meridian, when applicable, or to that of adjacent defined streets;
- f. Location of all permanent monuments properly bounding the approach of the subdivision;
- g. All new streets shall be named. New street names shall not conflict with names of existing Town streets;

- h. All lots established under the provisions of the subdivision code must be of sufficient depth to permit the erection of a building thereon. This requirement shall not apply to a lot that, after approval of the subdivision plan, will be conveyed to the owner of an adjoining lot and thence becoming an integral part of said adjoining lot. This intention of conveyance shall be noted on the Definitive Plan.
- i. All Definitive and Approval Not Required plans shall show proposed well and septic system locations as well as existing well and septic system locations on adjacent property. A separate drawing shall be submitted indicating this information;
- j. The Definitive Plan shall show the contiguous upland on each lot;
- k. All waivers requested and granted shall be noted on the Definitive Plan;
- l. Suitable space to record the action of the Board and the signatures of the members of the Board (or officially authorized person);
- m. Existing and proposed topography is to be at contour interval of two (2) feet. Datum to be Mean Sea Level;
- n. All surveys to be made with accuracy resulting in a minimum error of closure 1 to 10,000; and
- o. A covenant shall be filed with the plan to be endorsed by the Planning Board and recorded with the plan.

3. Access Adequacy:

a. General

No subdivision plan shall be approved unless each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, Chapter 41, Massachusetts General Laws, Sections 81K through 81GG.



b. Standards of Adequacy

Streets within a subdivision shall be considered to provide adequate access if they comply with the standards established in Section IV, Design Standards, of the Subdivision Regulations. Ways providing access to the streets within a subdivision, or providing access to lots said not to be within a subdivision shall normally be considered to provide adequate access only if there is assurance that prior to the construction on any lots, access will be in compliance with the following:

Units	10 or Fewer	11 - 49	More
	<u>Dwelling Units</u>	<u>Dwelling Units</u>	<u>Or Businesses</u>
Minimum Right-of-way Width	40 feet	40 feet	40 feet
Surface Width*	20 feet	22 feet	24 feet
Slight Distance Minimum	150 feet	200 feet	350 feet
Maximum Grade	8%	8%	6%

\* Including Berms, if any

c. Obligations

The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required above, and that he/she make physical improvements within such way in order to meet the standards specified above.

d. Waivers

As provided in Section 81-R of Chapter 41, Massachusetts General Laws, the Board may waive strict compliance with these requirements. In doing so, it will consult with the Highway Surveyor, Police Chief, Fire Chief, and Board of Selectmen in determining if the way in question will provide sufficient and suitable access.

4. Fee In The Way:

The subdivider or developer shall retain the fee in all ways to be created in any subdivision.

5. Review by the Board of Health as to Suitability of the Land:

The Planning Board shall within ten (10) days after submission of a plan to it, consult with the Board of Health. If the Board of Health is in doubt as to whether any of the land in the subdivision can be used as building sites without injury to the public health, it shall so notify the Planning Board in writing within thirty (30) days. Any approval of the plan by the Planning Board shall then only be given on condition that the lots of land as to which such doubt exists shall not be built upon without the prior consent of the Board of Health, who shall endorse on the plan such conditions, specifying the lots of land to which said condition applies.

6. Public Hearing

Before approval, modification and approval, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town once in each of two successive weeks; the first publication being not less than fourteen (14) days before the days of such hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list. The present owner (s) or trustee (s) of the subdivision must attend the hearing on the Definitive Plan.

There is a Public Hearing Fee of \$25.00 for each subdivision to defray advertising and mailing costs.

7. Certificate of Approval

The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by special delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reason for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board (or by the signature of the person officially authorized by the Board) but not until the statutory twenty (20) day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with four (4) prints thereof. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

#### SECTION IV -- DESIGN STANDARDS

- A. The Board shall require a minimum lot area as set forth in the Zoning By-Laws with a minimum of 75% contiguous upland, and frontage requirements shall be as set forth in the Zoning By-Laws. The building line is to be indicated on the plan for all lots where applicable.
- B. The minimum width of street right-of-ways shall be forty (40) feet.
- C. Property lines at street intersections shall be rounded to provide for a curb radius of not less than twenty (20) feet.
- D. Dead end streets shall be provided at the closed end with a turn-around having a property line diameter of at least ninety (90) feet. When ways requiring turn-arounds may be extended in future subdivisions, the Board may require only an area equal to the above requirement to be shown and marked 'Reserved for Turning'.
- E. All streets in the subdivision shall be continuous wherever practicable.
- F. Provisions satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property not yet subdivided.
- G. Grades of all streets shall be the reasonable minimum but shall not be more than 8% maximum. Where streets intersect with existing Town roads, there shall be a zero (0) degree or minus grade.
- H. At each corner of all lots and subdivision perimeters, including Approval Not Required lots, permanent monuments of reinforced concrete or stone shall be required to readily reproduce the subdivision and each lot on the ground. These monuments shall be at least 5" by 5" and 32" in depth.
- I. On land of single ownership where the intent is to subdivide into no more than two lots of legal area and an access is required for one lot, this access may be exempt from any or all of the requirements for lot frontage on the lot served by this access may also be waived. It shall be at the discretion of the Board to grant these waivers and to set requirements for the access. There shall be no further subdivision of the lot serviced by the access established. Any access established under this provision of waiver of Design Standards shall not be subject to acceptance by the Town as a public way.
- J. In the subdivision of land, lots which require an access shall not be located so that the accesses are adjacent or back-to-back.
- K. Any newly created subdivision which has a total of fifteen (15) or more building lots shall have two (2) roads for access onto existing improved way (s).

L. Prior to the issuance by the Building Inspector of a building permit for any structure in any subdivisions approved subsequent to the adoption of this regulation, streets servicing the lot or lots for which the permit is desired must meet the following specifications:

1. All trees, brush, stumps, roots, etc., must be removed for a minimum of thirty (30) feet and shall be removed from the premises;
2. Street (s) must be graded in accordance with Section IV. G.;
3. Sub-base shall be constructed with a minimum of 6" of clay or loam hardening plus 4" of processed stone or reprocessed concrete or bituminous concrete, for the full width of paved surface and berms. Sub-base shall be thoroughly compacted, using roller weighing not less than eight (8) tons;
4. The paved surface shall be a minimum of twenty (20) feet wide (without berms) and shall be constructed of bituminous concrete Type I-1 placed in two (2) layers. Base course to be 2" of binder, top course to be 1". Overall thickness to be a minimum of 3" after compaction using a roller weighing not less than four (4) tons on the base course and a roller weighing not less than eight (8) tons on the top course, and the construction methods shall conform with those required in Section B 18, Standard Specifications for Highways and Bridges, Commonwealth of Massachusetts, as amended. Turn-arounds on dead end streets shall have a minimum paved radius of thirty-five (35) feet. The paved surface generally shall be on the centerline of the way. Shoulders shall be provided on each side of the road to a minimum width of four (4) feet, excluding berms. Shoulders shall be hardened, top-soiled and seeded with perennial grass. Seeding shall also include all disturbed areas.

Roads may also be constructed of concrete. Specifications for concrete road construction shall be submitted to the Planning Board for approval and shall have the following minimum requirements:

- a. Concrete to be a minimum 4" thick, 4500 PSI minimum strength, with 4" slump, 6-7% air-entraining agent, no steel reinforcement, a saw cut every 15 feet (1/4" wide and 1/4" deep);
- b. Installed in two (2) pours for width to form crown and berms;
- c. Spray-on curing agent.

Specifications for concrete roads shall generally conform to standards established by the Portland Cement Association.

5. Bituminous concrete berms, two (2) feet minimum width on rolled asphalt base or binder course, shall be installed on each side of the road and slope toward the street at a rate of from 1 ½ to 2 ½ inches per foot;
6. Road drainage, including lines and structures, shall be constructed to meet storm characteristics acceptable to current engineering standards. Road drainage structures shall be placed not over 400 feet apart or as determined by the Planning Board or its representative. Catch basins, leaching basins or leaching fields shall be adequate for conditions encountered. Structures shall be precast units. Grates and frames shall be of Massachusetts standard grate type and shall conform with Massachusetts Department of Public Works specifications;

Catch basins shall be of solid construction, precast concrete, with sump, overflow and grate, located in the road to receive surface water. Leaching basins shall be of precast concrete, located off the road, and connected to catch basins with concrete, asphalt-coated, corrugated aluminum or steel pipe -- 10" minimum diameter. All leaching basins shall have a two (2) foot minimum width of 1 ½ stone around the circumference and for the full depth of leaching portion of the basin. Covers shall be precast concrete with stone markers set at grade to locate same. No portion of the drainage system shall be back-filled until an on-site inspection has been made by the Highway Surveyor and the developer's engineer;

7. The subdivider or his representative shall inform the Planning Board, the Highway Surveyors, and the developer's engineer in writing at least twenty-four (24) hours and not more than forty-eight (48) hours (excluding Saturdays, Sundays and Holidays) prior to commencing any phase of road construction, for on-site inspection and subsequent endorsement (or non-endorsement). Prior to inspection, the road centerline shall be established for construction purposes. Inspections shall be made at the following intervals:
  - a. When clearing, sub-grade, hardening and drainage in place;
  - b. To check binder course and thickness of material;
  - c. When finished road surface and berms are in place; and
  - d. When slopes and shoulders are loamed and graded, and street signs and bounds are installed.
8. All new utility lines shall be installed underground.
9. The subdivider shall install street signs for all roads. Signs shall be in accordance with the Town of Eastham standards and shall be located to properly identify all roads.

10. Upon completion of road construction, an as-built drawing shall be prepared, certified and submitted to the Planning Board by the developer's engineer or surveyor.
  11. Road construction and drainage shall be completed within two (2) years under Design Standards in force at the time work is to be performed. Roads shall be maintained for two (2) years by the subdivider after release of covenant.
- M. To insure compliance with all applicable requirements of these Design Standards, all plans shall have the following note lettered adjacent to the records of Board approval as a condition of approval.

"No lots may be conveyed and no building permits will be issued by the Town of Eastham until all applicable requirements of Section IV, Design Standards of the Subdivision Regulations have been met."

The Planning Board at its discretion may approve partial covenant releases, but not more than one-third or 33% of the lots may be released prior to full covenant release. A fee of \$25.00 shall be required for full covenant release.

Where performance security is required by the Town, such security shall be in such form as prescribed by the Town.

## **SECTION V - ADMINISTRATION**

### **A. VARIATION**

Strict compliance with the requirements of these rules and regulations may be waived when in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

### **B. REFERENCE**

For matters not covered by these rules and regulations, reference is made to Section 81K to 81GG, inclusive, of Chapter 41 of the General Laws.

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Approved as amended, Eastham Planning Board, June 9, 1988; November 2, 1989; April 12, 1990; September 17, 1992; February 12, 1993.